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ABSTRACT

This paper examines issues concerning the eligibility of children with attention deficit disorder (ADD) for special education and related services under the Individuals with Disabilities Education Act (IDEA). A policy memorandum was issued by the Department of Education in September 1991, identifying those circumstances under which such children are eligible for special services. Such children are seen to qualify under IDEA's "other health impairments" category if ADD is a chronic or acute health problem that limits alertness, adversely affects educational performance, and requires special education. They may also qualify under other IDEA disability categories or under Section 504 of the Rehabilitation Act of 1973. The policy interpretation memorandum was issued after reviewing public comments required under the Education of the Handicapped Act Amendments (1990) and is intended to clarify for states and local school districts their responsiblities under federal law toward children with ADD. Currently at issue is implementation of the Department's ADD policy and further consideration by Congress of eligibility of children with ADD under IDEA. An appendix summarizes the history, causes, prevalence, diagnosis, treatment, and educational implications of ADD. (Includes 53 bibliographic footnotes.) (DB)

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Special Education for Children With Attention Deficit Disorder: Current Issues

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EC 301001

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SPECIAL EDUCATION FOR CHILDREN WITH ATTENTION DEFICIT DISORDER: CURRENT ISSUES

SUMMARY

Children with Attention Deficit Disorder (ADD) seem to have varying degrees of difficulty sustaining or focusing attention on tasks that require continued concentration such as listening to a teacher during class. A common estimate is that 1.4 to 2.3 million children may have ADD. Whether these children qualify for special education and related services under the Individuals with Disabilities Education Act (IDEA) is controversial. The IDEA is the main Federal law that provides for the education of disabled infants, toddlers, children, and youth from birth through age 21. In September 1991, the Department of Education (ED) issued a policy memorandum that states that under certain circumstances a child with ADD may be eligible for special education and related services under the IDEA.

According to the policy memorandum, a child with ADD qualifies for services under the IDEA's "other health impairments" category if the ADD is a chronic or acute health problem that limits alertness, adversely affects educational performance, and causes a need for special education. The memorandum further states that a child with ADD may also qualify for services under other IDEA disability categories if he or she meets the appropriate criteria for that particular disability. The memorandum also outlines how a child with ADD may qualify for services under another Federal law: section 504 of the Rehabilitation Act of 1973. Section 504 prohibits discrimination against otherwise qualified persons with handicaps in federally assisted programs solely on the basis of handicap.

The Department of Education issued the policy interpretation after reviewing public comments on ADD that it gathered for Congress according to P.L. 101-476, the Education of the Handicapped Act Amendments of 1990. According to the memorandum, the Department decided to clarify for the States and local school districts their responsibility under Federal law toward children with ADD.

The issue of the eligibility of children with ADD under the IDEA arose in the 101st Congress during consideration of the Education of the Handicapped Act Amendments of 1990, P.L. 101-476. Advocates for children with ADD proposed that ADD be specifically included in the IDEA's list of qualifying conditions. Some education groups, however, opposed listing ADD in the Act. As a compromise, P.L. 101-476 required the ED to collect public comments on several questions about ADD children and report the findings to the Congress, and to establish information centers on ADD for parents, principals, and teachers.

Currently, at issue is implementation of the Department's ADD policy interpretation by the States and local school districts, and whether the Congress will further consider the question of the eligibility of ADD children under the IDEA in light of the Department's action. The Congress has not publicly considered the issue since the receipt of the public comments on ADD in May 1991.

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SPECIAL EDUCATION FOR CHILDREN WITH ATTENTION DEFICIT DISORDER: CURRENT ISSUES

INTRODUCTION

Children with Attention Deficit Disorder (ADD) seem to have varying degrees of difficulty sustaining or focusing attention on tasks that require continued concentration such as listening to a teacher during class or doing chores at home. Its causes are uncertain, and its prevalence unknown. A common estimate is that 3 to 5 percent of all children may have ADD.[1] Whether these children qualify for special education and related services under the Individuals with Disabilities Education Act (IDEA) is controversial. The IDEA is the main Federal law that provides for the education of disabled infants, toddlers, children, and youth from birth through age 21.[2] In September 1991, the Department of Education (ED) issued a policy memorandum that states that under certain circumstances a child with ADD may be eligible for special education and related services under the IDEA.

According to the policy memorandum, a child with ADD qualifies for services under the IDEA's "other health impairments" category if the ADD is a chronic or acute health problem that limits alertness, adversely affects educational performance, and causes a need for special education. The memorandum further states that a child with ADD may also qualify for services under other IDEA disability categories if he or she meets the appropriate criteria for that particular disability. The memorandum also outlines how a child with ADD may qualify for services under another Federal law: section 504 of the Rehabilitation Act of 1973.[3] Section 504 prohibits discrimination against otherwise qualified persons with handicaps in federally assisted programs solely on the basis of handicap.

The Department of Education's policy memorandum is the most recent development in the controversy over whether children with ADD qualify for services under the IDEA. The matter arose in the 101st Congress during consideration of the Education of the Handicapped Act Amendments of 1990, P.L. 101-476. At issue was whether children with ADD in need of special education could qualify for these services under one of the IDEA's existing disability categories, or whether the IDEA's list of qualifying disabilities should be amended to specifically include ADD. Advocates for children with ADD

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[1]For a further discussion of the condition of ADD, see the appendix to this report.

[2]20 U.S.C. 1400 et seq.

[3]29 U.S.C. 794.

proposed that ADD be specifically included in the IDEA. They argued that these children have a disability yet are not qualifying for special education. Some education groups, however, opposed listing ADD in the Act. They argued that it is not necessary to list ADD in the Act since ADD children in need of special education should be able to satisfy the eligibility criteria for disability conditions such as learning disabled and thus qualify for services under existing law. Ultimately, the Congress did not include ADD in the IDEA list of qualifying conditions.

As a compromise, the Congress included two provisions regarding ADD in the legislation. First, P.L. 101-476 mandated that the ED collect public comments on several questions about ADD children and report the findings to the Congress. Second, P.L. 101-476 required the ED to establish information centers to disseminate current knowledge about ADD to parents, principals, and teachers.

The public comments were collected by the Department between November 1990 and March 1991, and were presented to the Congress in May 1991.

The Department of Education issued the interpretation of the applicability of the IDEA to ADD children after reviewing the public comments. According to the policy memorandum, the ED decided to clarify for the States and local school districts their responsibility under Federal law toward children with ADD.

Currently, at issue is implementation of the ED's ADD policy interpretation by the States and local school districts, and whether the Congress will further consider the question of the eligibility of ADD children under the IDEA in light of the ED's action. Since the receipt of the comments, the Congress has not publicly considered the matter.

This report provides a brief description of the IDEA and section 504 of the Rehabilitation Act of 1973, background on the ADD issue, a description and analysis of the policy interpretation, and current issues. An appendix to this report briefly discusses the condition of ADD and its characteristics.

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AND SECTION 504 OF THE REHABILITATION ACT OF 1973

THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The IDEA is the main Federal law that provides for the education of disabled infants, toddlers, children, and youth from birth through age 21. For participating States, part B of the IDEA requires that disabled children ages 3 through 21 be provided a free and appropriate public education.[4] Part B

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[4]For participating States, part H of the IDEA requires that disabled infants and toddlers under the age of 3 and their families be provided early intervention services no later than Sept. 30, 1994.

permanently authorizes two formula grant programs to assist the States in serving disabled children.

Under the IDEA's implementing regulations, an appropriate education consists of special education and related services specially designed to meet the unique needs of each child. The IDEA's regulations require that each disabled child have an individualized education program (IEP), and be served in a regular classroom with his or her nondisabled peers to the maximum extent appropriate.

In general, disabled children are children who have an inherent condition that so adversely affects their ability to learn that they need special education and related services.[5] For children ages 5 and older, the IDEA and its implementing regulations identify several disability conditions that qualify a child for all of the services and protections outlined in the Act.[6] Currently, neither the Act nor its regulations specifically include the term ADD in the definition of "children with disabilities."[7]

The Act defines children with disabilities as children with:

> mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities, who, by reason thereof need special education and related services.[8]

The regulations for the Act define children with disabilities as those children evaluated in accordance with procedures outlined in regulation as having one or more specified physical or mental impairments and in need of

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[5]The 1975 House report on the Education for All Handicapped Children Act, P.L. 94-142, described handicapped children as "those who deviate from the average in mental, physical, or emotional characteristics to such a degree that they require modifications in school programs or methods in order to develop to their maximum potential." U.S. Congress. House. Committee on Education and Labor. *Education for All Handicapped Children Act of 1975*. Report to accompany H.R. 7217. House Report No. 94-332, 94th Cong., 1st Sess. Washington, GPO, 1975. p. 7.

[6]For children ages 3 and 4, there is an additional disability category of developmentally delayed.

[7]The Department of Education has previously ruled on the applicability of the Education of the Handicapped Act (EHA) to children with ADD. (Formerly, the Individuals with Disabilities Education Act was the EHA.) Policy letters issued in 1987 and 1989 seemed to indicate that ADD children did not qualify under the EHA unless they also had a handicapping condition defined in the Act and regulations. See 2 EHLR 211:472 and 2 EHLR 213:193.

[8]20 U.S.C. 1401(a)(1).

special education and related services. The regulations define 12 physical and mental impairments: autism, deaf-blindness, hearing impairments, mental retardation, multiple disabilities, orthopedic impairments, other health impairments, serious emotional disturbance, specific learning disabilities, speech or language impairments, traumatic brain injury, and visual impairments.[9] None of these definitions specifically include the term ADD.

SECTION 504

Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against otherwise qualified persons with handicaps in federally assisted programs and activities solely on the basis of handicap.[10] All schools that receive Federal financial assistance must comply with the section 504 antidiscriminatory guidelines.[11]

Section 504 and the IDEA are related Federal laws, although they differ in the nature of their purpose, scope, and requirements. In the context of public elementary and secondary education, section 504 and the IDEA are related in that they both require that disabled children receive a free and appropriate public education. However, section 504 differs from the IDEA in that section 504 is a civil rights law while the IDEA is primarily a grant statute. In other words, section 504 requires as a condition of receiving **any** Federal funds that handicapped children not be denied a free appropriate public education, and requires procedural safeguards for handicap students and their parents.[12] The IDEA, on the other hand, provides financial assistance to participating States to ensure that disabled students receive a free appropriate public education, and provides procedural safeguards for disabled students and their parents.[13]

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[9]34 CFR 300.5.

[10]For further information on section 504, see: U.S. Library of Congress. Congressional Research Service. *Section 504 of the Rehabilitation Act: Statutory Provisions, Legislative History, and Regulatory Requirements*. CRS Report for Congress No. 89-48 EPW, by Mary F. Smith. Washington, 1989.

[11]The Department of Education, Office for Civil Rights, has previously ruled in specific cases on the applicability of section 504 to children with ADD. These rulings found that local schools may have to provide children with ADD special education in certain circumstances. See 3 EHLR 353:205 and 3 EHLR 353:201.

[12]Virtually all public schools must comply with section 504 and its implementing regulations because virtually all public schools receive Federal funds from a variety of programs ranging from the National School Lunch Program to chapter 2 of the Elementary and Secondary Education Act.

[13]All States voluntarily participate in IDEA programs; they must apply annually for IDEA part B funds and agree to meet the Act's requirements as a condition for receiving this financial assistance.

Although both laws cover the education of disabled students, the IDEA is seen as the principal Federal statute in this area. The IDEA has rigorous requirements for the provision of a free appropriate public education to disabled students and provides Federal financial assistance for special education. Section 504 and its regulatory requirements are similar in many respects to the IDEA's requirements, although there are some important differences.[14]

Section 504 and its implementing regulations require federally assisted public schools to provide handicapped children a free appropriate public education. Under section 504's regulations, an appropriate education could consist of education in regular classes, education in regular classes with the use of supplementary services, or special education and related services. Section 504's regulations require that a handicapped child be served in a regular classroom with the use of supplementary aids and services to the maximum extent appropriate before placement in special education. The education and services provided must meet the unique educational needs of each child.

Section 504 and its implementing regulations do not specifically identify qualifying handicaps as in the IDEA; instead, section 504 broadly defines handicaps as being physical and mental impairments that substantially limit major life activities, including learning. Thus, this functional definition may allow a student to be considered handicapped under section 504 even though he or she is not considered disabled under the IDEA.

Whether a student qualifies under section 504, but not under the IDEA, depends primarily on whether the student's condition causes a need for special education. The IDEA's definition of a disability includes the requirement that a child's condition cause a need for special education, whereas this requirement is not in section 504's definition of a handicap. Hence, a student with an impairment in need only of supplementary services could qualify for these services under section 504 but not under the IDEA.[15] In short, it is possible for a student to be eligible for services under section 504 but not under the IDEA, although whether such a situation would arise would depend on the circumstances of the case.

BACKGROUND OF THE ATTENTION DEFICIT DISORDER ISSUE

Advocates for children with ADD raised the issue of the eligibility of ADD children under the IDEA in the 101st Congress during consideration of the

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[14]The Department of Education's regulations implementing section 504 begin at 34 CFR 104.1.

[15]For example, a student with an impairment in need only of transportation services would not be eligible under the IDEA, but could be eligible for transportation services under section 504.

Education of the Handicapped Act Amendments of 1990, P.L. 101-476.[16] (The 1990 amendments reauthorized the IDEA discretionary grant programs and made minor changes to its three State formula grant programs.[17]) They argued that ADD children have a disability that harms their educational performance yet are not qualifying for special education under the IDEA.[18] They proposed that the Act's list of qualifying disabilities be amended to specifically include ADD, thus enabling these children to receive special assistance in school.

Both the Senate and the House addressed this concern during mark up of the discretionary grant reauthorization bills. The Senate bill did not include any explicit language on ADD. However, the committee report to accompany S. 1824, the Education of Individuals with Disabilities Act of 1989, directed the Secretary of Education to interpret the term "minimal brain dysfunction" under the definition of "specific learning disability" in the Act to include the condition of ADD.[19] In other words, the Secretary was directed to consider ADD as a learning disability. The House bill did amend the Act to specifically include ADD in the definition of the "other health impaired" disability category.[20] The committee report to accompany H.R. 1013, the Education of the Handicapped Act Amendments of 1990, stated that ADD should be treated as a disability and that services should not be conditioned on the presence or absence of other disabilities.[21]

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[16]The ADD issue has also arisen during the annual appropriations process. Both the Senate and House appropriations subcommittees on Labor, Health and Human Services, and Education have addressed the matter during hearings and in their committee reports to accompany appropriations acts. However, this report will focus on the 1990 IDEA debate.

[17]Formerly, the Act was the Education of the Handicapped Act. For further information on P.L. 101-476, see: U.S. Library of Congress. Congressional Research Service. *Education of the Handicapped Act Amendments of 1990, P.L. 101-476: A Summary*. CRS Report for Congress No. 91-297 EPW, by Steven R. Aleman. Washington, 1991.

[18]U.S. Congress. Committee on Education and Labor. *Hearings on the Reauthorization of the EHA Discretionary Programs*. Hearings, 101st Cong., 2d Sess. Feb. 21, 1990. Washington, GPO, 1990. p. 351-356.

[19]U.S. Congress. Committee on Labor and Human Resources. *Education of Individuals with Disabilities Act of 1989*. Senate Report No. 101-204, 101st Cong., 1st Sess. Washington, GPO, 1989. p. 9.

[20]Section 101(a). H.R. 1013, 101st Cong. 2d Sess.

[21]U.S. Congress. Committee on Education and Labor. *Education of the Handicapped Act Amendments of 1990*. House Report No. 101-544, 101st Cong., 2d Sess. Washington, GPO, 1990. p. 6.

Some education groups (such as the National Association of State Directors of Special Education, the National Education Association, and the National School Boards Association) strongly opposed the Senate and House action regarding ADD. They had several objections to including ADD in the definition of disabling conditions, either directly or by reference. First, they claimed that it is not necessary to list ADD in the Act since children with ADD in need of special education should be able to satisfy the eligibility criteria for disability conditions such as learning disabled and severely emotionally disturbed and thus qualify for services under existing law. Second, they contended that adding ADD to the Act would greatly expand the special education population and overburden the system and diminish services to all disabled students. In their judgement, limited resources would be diverted away from other more disabled students because funding and staff levels are not sufficient to serve an expanded pool of students. Third, they argued that ADD is too controversial a condition to add to the Act. Scientists, doctors, and researchers are still not sure how to define it, how to diagnose it, or what causes it.

Ultimately, the Congress did not include ADD in the IDEA list of qualifying conditions. The conference bill dropped the House ADD language and added two new provisions regarding ADD.[22] First, the ED was required to collect public comments on several questions about ADD children and report the findings to the Congress. Second, the Department was required to establish information centers to disseminate current knowledge about ADD to parents, principals, and teachers. The conference committee also directed the Department to clarify for schools whether ADD children are covered by section 504 of the Rehabilitation Act of 1973.

The provision in P.L. 101-476 asking for public comments on ADD children was intended to provide Congress advice for any future consideration of the issue by answering questions raised by groups on both sides of the controversy. The comments were collected through a Notice of Inquiry that was published in the November 29, 1990 issue of the *Federal Register*.[23] The Notice asked for responses to 12 questions on special education for children with ADD. (The legislation specified eight of the questions; the Department added four questions of their own.) The questions focused on the availability of special education for ADD children, the unique characteristics and educational needs of ADD children, and possible IDEA eligibility criteria for ADD children. The comment period closed on March 29, 1991. In May 1991, the ED provided a summary of the comments to the Congress.

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[22]U.S. Congress. Conference Committee. *Education of the Handicapped Act Amendments of 1990*. House Report No. 101-787, 101st Cong., 2d Sess. Washington, GPO, 1990. p. 53-54.

[23]See 55 FR 49598.

The public comments gathered reflected a great diversity of views on ADD children.[24] The bulk of the 2,068 comments received came from parents of children with ADD and school administrators. In general, the parents' message was consistent: they do not believe that their children's educational needs are being met in school and want their children to be eligible for special education. The administrators were not as consistent in their responses; they were more likely to hold differing opinions on ADD children. In general, the theme among administrators seemed to be that if a child with ADD has a need for special education, then he or she can already qualify for services under existing IDEA categories by meeting the appropriate eligibility criteria.

The Department of Education issued the interpretation of the applicability of the IDEA to ADD children after reviewing the public comments. According to the policy memorandum, the Department decided to clarify for the States and local school districts their responsibility under Federal law toward children with ADD.

DESCRIPTION AND ANALYSIS OF THE DEPARTMENT OF EDUCATION'S ATTENTION DEFICIT DISORDER POLICY INTERPRETATION

On September 16, 1991, the ED issued an interpretation of the applicability of the IDEA and section 504 of the Rehabilitation Act of 1973 to children with ADD. A "policy memorandum" from three Assistant Secretaries to chief State school officers outlines the ED's official position on the coverage of ADD children under these Federal laws.[25] Policy memorandums are often issued by the Department to interpret and apply Federal law and regulations to specific situations, and are issued under the Department's power to administer and enforce the law.[26]

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[24]See U.S. Department of Education. Office of Special Education and Rehabilitative Services. *Summary of Comments on Special Education for Children with Attention Deficit Disorder; a report.* May 1991. Washington, 1991.

[25]See U.S. Department of Education. Office of Special Education and Rehabilitative Services. *Clarification of Policy to Address the Needs of Children with Attention Deficit Disorders within General and/or Special Education.* Memorandum from Robert R. Davila, Assistant Secretary, Office of Special Education and Rehabilitative Services, Michael L. Williams, Assistant Secretary, Office for Civil Rights, and John T. MacDonald, Assistant Secretary, Office of Elementary and Secondary Education. Sept. 16, 1991. Washington, 1991. (Hereafter cited as Davila, et al., *Clarification of Policy to Address the Needs of Children*)

[26]In general, Federal administrative agencies have the power to formulate policy and make rules to administer congressionally created programs. While administrative guidelines such as policy memorandums do not have the weight (continued...)

The policy memorandum states that a child with ADD is currently eligible for special education and related services under the IDEA's "other health impairments" category solely on the basis of ADD **if** the ADD is a chronic or acute health problem that limits alertness, adversely affects educational performance, and causes a need for special education. A child with ADD may also qualify for services under other disability categories if he or she meets the appropriate criteria for that particular disability.[27]

The memorandum also outlines how a child with ADD may qualify for services under section 504 of the Rehabilitation Act of 1973. The policy memorandum states that a child with ADD may be eligible for educational services under section 504 (even though he or she does not qualify under the IDEA) if the ADD substantially limits his or her ability to learn.[28]

IMPLICATIONS FOR STUDENTS AND SCHOOLS

It is important to note that **this policy interpretation does not mean that all children with ADD automatically qualify for special education and related services under the IDEA**. With regard to the eligibility criteria for the "other health impairments" category, there are some important implications for students. First, whether a child is determined to have limited alertness will depend on how the characteristics of ADD--inattention, impulsivity, and hyperactivity--manifest themselves in the classroom. A child who is inattentive or hyperactive in the classroom could be considered as limited in his or her alertness. Second, the child's ADD must adversely affect his or her educational performance. That judgement is made by an evaluation team formed by the school. Third, special education is needed only if a child has unique needs requiring specially designed instruction. Having ADD in and of itself is not sufficient to qualify under the IDEA.

There are some important implications of the policy memorandum for schools regarding the evaluation of ADD children for determining eligibility under the IDEA. First, schools have an obligation to evaluate children with ADD if it is suspected that they need special education because of their condition. Second, schools will need to develop expertise on ADD for evaluation purposes. In the evaluation process, the evaluation team formed by the school to determine the ADD's effect on educational performance must include at least one teacher or other specialist knowledgeable in the area of the suspected disability--in this case ADD. Third, schools may have to provide a licensed physician to make a medical diagnosis of ADD as part of the evaluation process,

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[26](...continued)
of law, they are often given deference by the courts. For more information, see *Chevron U.S.A. v. Natural Res. Def. Council* 467 U.S. 837 (1984).

[27]Davila, et al., Clarification of Policy to Address the Needs of Children. p. 3.

[28]Ibid., p. 6.

depending on several factors including State evaluation guidelines and the judgement of the evaluation team.[29]

It is important to note that **a student may be considered handicapped under section 504, and therefore entitled to educational services, but not considered disabled under the IDEA**. Section 504, because of its broad scope of protection, may entitle some children with ADD to some form of special attention and assistance who would otherwise not be eligible under the IDEA. For instance, a child with ADD in need only of related services could be eligible for these services under section 504 but not under the IDEA.

For students, the section 504 evaluation and eligibility determination process is basically similar to the IDEA process. Children with ADD whose parents request an evaluation to determine eligibility under section 504 cannot be denied one by the school. They are entitled to the due process protections of section 504 like other handicapped students.

Whether many children with ADD will qualify for services under section 504 but not under the IDEA is difficult to determine, and will depend on the circumstances of each particular case. If it is possible to serve a child under either law, schools may opt to serve him or her under the IDEA since Federal funds are available to cover some of the expense.

Regardless of whether children with ADD qualify under either the IDEA or section 504, one important implication of the policy memorandum for schools is that regular education teachers, not just special education personnel, may need training on how best to serve these children. The requirement of both laws that disabled students be educated with their nondisabled peers to the maximum extent appropriate compels regular education teachers to also be involved in meeting the needs of these children. Coordination between regular and special education could be important in serving ADD children.

CURRENT ISSUES

Currently, at issue in the ADD controversy is implementation of the Department's ADD policy interpretation by the States and local school districts, and whether the Congress will further consider the question of the eligibility of ADD children under the IDEA in light of the Department's action.

IMPLEMENTATION OF THE POLICY INTERPRETATION

State Education Agencies (SEAs) now have the responsibility to implement the Department's policy interpretation by ensuring that local school districts serve ADD children. Each State has its own special education law to comply with the requirements of the IDEA, and its own particular regulations and guidelines that implement the State law. SEAs have to inform local school

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[29]Telephone interview with JoLeta Reynolds, U.S. Department of Education, Nov. 20, 1991.

districts how the Department's policy interpretation specifically applies in that State given its own special education law and regulations.

SEAs may assist local school districts to serve ADD children by providing technical assistance and training to local school administrators and teachers about the condition of ADD, evaluation procedures for determining eligibility, appropriate placements, and instructional techniques for ADD children. Some States have already made progress in these areas.[30]

A key concern for many States is the potential expense of providing special education to children with ADD. A common estimate is that 3 to 5 percent of school age children may have ADD. That percentage translates to approximately 1,360,000 to 2,270,000 children. Some fear that the States will not have the resources to sufficiently serve ADD students and all other disabled students. The number of ADD children served will depend in part on State guidelines for determining eligibility under the IDEA "other health impairments" category.

Department of Education Activities Regarding Attention Deficit Disorder

To assist SEAs and local school districts to implement the memorandum, the ED has initiated several activities.

The Education of the Handicapped Act Amendments of 1990, P.L. 101-476, required the ED to establish **ADD information centers**. (The centers are newly authorized in part E, section 641(f) of the IDEA.) The centers are charged with synthesizing current information about ADD and disseminating that information to parents, educators, and researchers. The centers will disseminate the information through professional and parent organizations. The Congress earmarked $750,000 for these centers in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1991, P.L. 101-517, and has earmarked $1,000,000 for these centers in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1992, P.L. 102-170.

The Department of Education awarded contracts for four centers with FY 1991 funds, supporting two centers concentrating on identification and assessment issues, and two centers concentrating on intervention issues. The identification and assessment-focused centers are operated by the University of Miami (Florida), and the Arkansas Children's Hospital Research Center. The intervention-focused centers are operated by the University of California, Irvine, and Research Triangle Institute (North Carolina). These centers began operation in October 1991.

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[30]For example, see: Virginia Department of Education. *Attention Deficit Hyperactivity Disorder and the Schools*. State Department of Education, Richmond, VA, 1989.

The Department of Education has expanded the mission of the **Federal Resource Center** (FRC) to include disseminating information on ADD to the States. The FRC (authorized in part C, section 621 of the IDEA) provides technical assistance and training to the regional resource centers to aid them in providing technical assistance to the States in the provision of special education under the IDEA. The FRC is operated by the University of Kentucky.

The Department has charged the FRC with three specific tasks to be accomplished over the next 2 years. First, the FRC is to collect and examine information on successful practices and programs in the education of children with ADD. Second, the FRC is to synthesize the information that it gathers. Third, the FRC is to develop and distribute resource packets to the States. The FRC began these efforts in June 1991.

The Department of Education is also planning a **national forum** on the education of children with ADD. At this forum, the FRC and the ADD centers will share their information with educators, parents, and policymakers. The forum is planned for Washington, D.C., in late 1992 or early 1993.

The Department of Education will support **teacher training** programs to improve teachers' ability to address the needs of ADD children.[31] The Congress has earmarked $1,500,000 for the development of training programs for regular and special education teachers on ADD in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1992, P.L. 102-170.

CONGRESSIONAL CONSIDERATION OF THE ISSUE

No congressional action is necessary to validate the Department's ADD policy interpretation. (The Department issued the policy memorandum under its power to administer and enforce the law.) Thus far, neither the House nor the Senate has publicly considered the question of the eligibility of ADD children under the IDEA since the receipt of the public comments on ADD in May 1991.

Legislative action to overrule or revise the policy interpretation is possible, but unlikely at this time since there have been no indications from either the House Education and Labor Committee or the Senate Labor and Human Resources Committee that they object to the policy memorandum. Factors that may prompt future consideration of the issue include any problems that arise during State and local implementation of the policy interpretation, the number of ADD students served, and the added cost of serving ADD students.

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[31]See 56 FR 57206.

APPENDIX

ATTENTION DEFICIT DISORDER

Overview

Attention Deficit Disorder is a controversial condition. Even though it is generally agreed that it exists, scientists, doctors, and researchers are still not sure how to define it, how to diagnose it, or what causes it. The label attached to the condition and the focus of our understanding of it has changed repeatedly over time.

The basic problem for children with ADD seems to be that they have varying degrees of difficulty sustaining or focusing attention on tasks that require continued concentration such as listening to a teacher during class or doing chores at home.

Today, children with ADD are considered to have either Attention-Deficit Hyperactivity Disorder or Undifferentiated Attention Deficit Disorder. The term ADD is often used to refer to both disorders for two basic reasons. First, since the essential feature of both disorders is difficulty in maintaining or focusing attention on the task at hand, the term ADD is a convenient reference to both syndromes. Second, and more important, these two conditions were at one time regarded as essentially subtypes of a disorder known as Attention Deficit Disorder. In other words, at one time Attention Deficit Disorder was considered a single condition that has since been differentiated into two different disorders.

The following sections briefly outline the development of our understanding of attention disorders, and discuss their causes, prevalence, diagnosis, treatment, and educational implications.[32]

History of Attention Disorders

Our understanding of attention disorders in children has been evolving since the beginning of this century, and continues to grow.[33] Until recently,

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[32]For a further discussion of ADD, see: U.S. Library of Congress. Congressional Research Service. *Childhood Mental Disorders: Attention-Deficit Hyperactivity Disorder, Autism, and Dyslexia*. CRS Report for Congress No. 91-405 SPR, by Edith Fairman Cooper. Washington, 1991. p. 3-7.

[33]For a fuller discussion of our evolving understanding of attention disorders, see: Barkley, Russell A. *Attention Deficit Hyperactivity Disorder: A Handbook for Diagnosis and Treatment*. New York, Guilford Press, 1990. p. 3-37 (Hereafter cited as Barkley, *Attention Deficit Hyperactivity Disorder*); Goldstein, Sam and Michael Goldstein. *Managing Attention Disorders in Children: A Guide for Practitioners*. New York, John Wiley & Sons, 1990. p. 4-13 (Hereafter cited as Goldstein and Goldstein, *Managing Attention Disorders in Children*);
(continued...)

attention disorders were popularly known as childhood hyperactivity or hyperkinesis. The third edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM-III), published in 1980, replaced the DSM-II category "Hyperkinetic Reaction of Childhood" with the category "Attention Deficit Disorder." In addition, two subtypes of the condition were established--Attention Deficit Disorder with Hyperactivity and Attention Deficit Disorder without Hyperactivity.

The new ADD category signified an important reconceptualization of hyperactivity. The DSM-III diagnostic criteria for ADD emphasized difficulties with attention span and impulsiveness over difficulties with hyperactivity. The locus of the condition shifted from overactivity to attention deficit. With the de-emphasis on hyperactivity, the two subtypes of ADD were created to distinguish those children with and without excessive motor activity or restlessness.[34] The broadening and change in emphasis of the diagnostic criteria made it possible to identify those children with attention deficits who would not have been diagnosed as hyperactive under the former diagnostic category.[35] However, because of confusion and a lack of conclusive evidence about whether children with Attention Deficit Disorder without Hyperactivity have a similar or qualitatively different type of attention deficit than other ADD children, questions arose in the early 1980s about whether this ADD subtype was an authentic condition.[36]

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[33](...continued)
and Shaywitz, Sally E., and Bennett A. Shaywitz. *Attention Deficit Disorder: Current Perspectives*. In Kavanagh, James F., and Tom J. Truss, Jr., eds. *Learning Disabilities: Proceedings of the National Conference*. Parkton, MD, York Press, 1988. p. 372-376. (Hereafter cited as Shaywitz and Shaywitz, *Attention Deficit Disorder*)

[34]Lahey, Benjamin B., and Caryn L. Carlson. Validity of the Diagnostic Category of Attention Deficit Disorder Without Hyperactivity: A Review of the Literature. *Journal of Learning Disabilities*, v. 24, no. 2, Feb. 1991. p. 110 (Hereafter cited as Lahey and Carlson, *Validity of the Diagnostic Category of Attention Deficit Disorder Without Hyperactivity*); Barkley, *Attention Deficit Hyperactivity Disorder*, p. 21-22; and Shaywitz and Shaywitz, *Attention Deficit Disorder*, p. 391-393.

[35]Lahey, Benjamin B., et al. Attention Deficit Disorder With and Without Hyperactivity: Comparison of Behavioral Characteristics of Clinic-Referred Children. *Journal of the American Academy of Child and Adolescent Psychiatry*, v. 26, no. 5, Sept. 1987. p. 718. (Hereafter cited as Lahey, et al., *Attention Deficit Disorder With and Without Hyperactivity*)

[36]Barkley, *Attention Deficit Hyperactivity Disorder*, p. 22-23; and Lahey and Carlson, *Validity of the Diagnostic Category of Attention Deficit Disorder Without Hyperactivity*, p. 110.

The third edition-revised DSM (DSM-III-R), published in 1987, replaced the DSM-III category "Attention Deficit Disorder" with the category "Attention-Deficit Hyperactivity Disorder." Another category, "Undifferentiated Attention Deficit Disorder," was also created. This change reflected the continued uncertainty in the mid 1980s about whether the earlier ADD subtype Attention Deficit Disorder without Hyperactivity was an authentic condition. The DSM-III-R downgraded the controversial ADD subtype by providing minimal diagnostic criteria for its analogous category Undifferentiated Attention Deficit Disorder.[37]

Because of the DSM-III-R's revision of the diagnostic criteria for Attention-Deficit Hyperactivity Disorder and the minimal diagnostic criteria for Undifferentiated Attention Deficit Disorder, the likely diagnosis for a child with an attention disorder is Attention-Deficit Hyperactivity Disorder. However, even though there are few published criteria, practitioners do make a diagnosis of Undifferentiated Attention Deficit Disorder.[38]

The fourth edition DSM (DSM-IV), to be published in 1993, may redefine these categories once again, reflecting another change in our conceptualization of attention disorders.

For the purposes of this report, the term Attention Deficit Disorder is used to refer to both Attention-Deficit Hyperactivity Disorder and Undifferentiated Attention Deficit Disorder.

Causes, Prevalence, Diagnosis, Treatment, and Educational Implications

Scientists are not certain of the causes of ADD.[39] Most researchers agree that there is probably more than one cause. Investigators have generally focused on three factors: brain-related factors, genetic factors, and

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[37]Barkley, *Attention Deficit Hyperactivity Disorder*, p. 26; Goldstein and Goldstein, *Managing Attention Disorders in Children*, p. 10; and Lahey and Carlson, *Validity of the Diagnostic Category of Attention Deficit Disorder Without Hyperactivity*, p. 110-111.

[38]Telephone interview with Dr. Benjamin B. Lahey, University of Miami (FL), Aug. 13, 1991; Barkley, *Attention Deficit Hyperactivity Disorder*, p. 184; and Goldstein and Goldstein, *Managing Attention Disorders in Children*, p. 10-13.

[39]For a fuller discussion of the causes of ADD, see: Barkley, *Attention Deficit Hyperactivity Disorder* , p. 95-104; Goldstein and Goldstein, *Managing Attention Disorders in Children*, p. 28-47; and Shaywitz and Shaywitz, *Attention Deficit Disorder*, p. 458-472.

environmental factors.[40] Genetic influences are generally seen as the most significant factor in causing ADD in children.[41] A recent study at the National Institute of Mental Health may lead to a better understanding of the causes of ADD. Researchers found in a controlled study that the parts of the brain that control attention and motor activity function at lower metabolism (e.g., energy) levels in adults with ADD than they do in adults without ADD.[42]

Estimates of the prevalence of ADD vary because of difficulty in precisely identifying children with attention disorders. Estimates of the percentage of children affected by ADD vary from 1 to 20 percent.[43] A common estimate is that from 3 to 5 percent of all children have ADD.[44] A range of 1 to 20 percent of school age children (ages 5 through 17) translates to approximately 450,000 to 9,080,000 children; a range of 3 to 5 percent of school age children translates to approximately 1,360,000 to 2,270,000 children.

Experts have found ADD to be more common in boys than in girls. The reasons for the sex differences are unclear, although it is thought that a referral bias towards boys is part of the explanation.[45]

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[40]Nussbaum, Nancy and Erin Bigler. *Identification and Treatment of Attention Deficit Disorder*. PRO-ED, Inc., Austin, TX, 1990. p. 15. (Hereafter cited as Nussbaum and Bigler, *Identification and Treatment of Attention Deficit Disorder*)

[41]Barkley, *Attention Deficit Hyperactivity Disorder*, p. 102-103; Goldstein, and Goldstein, *Managing Attention Disorders in Children*, p. 37; and Shaywitz and Shaywitz, *Attention Deficit Disorder*, p. 458-460.

[42]Zametkin, Alan J., et al. Cerebral Glucose Metabolism in Adults with Hyperactivity of Childhood Onset. *The New England Journal of Medicine*, v. 323, no. 20, Nov. 15, 1990. p. 1361-1366.

[43]Breen, Michael J. and Thomas S. Altepeter. *Disruptive Behavior Disorders in Children: Treatment-focused Assessment*. New York, Guilford Press, 1990. p. 15.

[44]Greenhill, Laurence L. Attention-Deficit Hyperactivity Disorder in Children. In Garfinkel, Barry D., Garbiellle A. Carlson, Elizabeth B. Weller, eds. *Psychiatric Disorders in Children and Adolescents*. Philadelphia, W.B. Saunders Company, 1990. p. 153; Barkley, *Attention Deficit Hyperactivity Disorder*, p. 61.

[45]Barkley, *Attention Deficit Hyperactivity Disorder*, p. 65-66; and Shaywitz and Shaywitz, *Attention Deficit Disorder*, p. 455-456.

Attention Deficit Disorder is a difficult condition to diagnose.[46] There is no specific test for ADD; a diagnosis is usually based on child, family, and teacher interviews and questionnaires, medical and psychological evaluations, and behavioral rating scales. In addition, a diagnosis may be complicated by the presence of other conditions with similar symptoms. The DSM-III-R diagnostic criteria for Attention-Deficit Hyperactivity Disorder require a child to display any 8 of 14 symptoms of inattention, impulsivity, and motor hyperactivity for at least 6 months.[47] As a result, children previously diagnosed as Attention Deficit Disorder without Hyperactivity could be diagnosed as Attention-Deficit Hyperactivity Disorder even though they display no hyperactivity.[48]

There are four general methods of treatment for ADD children: medication, educational remediation, behavior management in the home, and social skills training and counseling.[49] Generally, a combination of treatment methods is recommended. The most common component of treatment regimes is medication. Stimulant drugs such as Ritalin, Dexedrine, and Cylert are typically used in an attempt to control impulsive behavior and enable ADD children to concentrate longer.[50] Concerns are often raised, however, about their effectiveness, overuse, adverse side effects, and a lack of proper monitoring.[51]

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[46]For a fuller discussion of diagnosing ADD, see: Barkley, *Attention Deficit Hyperactivity Disorder*, p. 181-187, 209-393; Goldstein and Goldstein, *Managing Attention Disorders in Children*, p. 49-211; and Shaywitz, and Shaywitz, *Attention Deficit Disorder*, p. 405-430.

[47]In addition, the onset of the symptoms must be before the age of seven, and the child must not meet the criteria for a pervasive developmental disorder. American Psychiatric Association. *Diagnostic and Statistical Manual of Mental Disorders, Third Edition, Revised.* American Psychiatric Association, Washington, DC, 1987. p. 50-53.

[48]Lahey and Carlson, *Validity of the Diagnostic Category of Attention Deficit Disorder Without Hyperactivity*, p. 111; and Lahey, Benjamin B., et al., *Attention Deficit Disorder With and Without Hyperactivity*, p. 718-719.

[49]Nussbaum and Bigler, *Identification and Treatment of Attention Deficit Disorder*, p. 23.

[50]Anastopoulos, Arthur D., George J. DuPaul, and Russell A. Barkley. Stimulant Medication and Parent Training Therapies for Attention Deficit-Hyperactivity Disorder. *Journal of Learning Disabilities*, v. 24, no. 4, Apr. 1991. p. 211.

[51]Divoky, Diane. Ritalin: Education's Fix-it Drug. *Phi Delta Kappan*, v. 70, no. 8, Apr. 1989. p. 601-602; Kohn, Alfie. Suffer the Restless Children. *The Atlantic Monthly*, v. 264, no. 5, Nov. 1989. p. 96-100; and Barkley, *Attention Deficit Hyperactivity Disorder*, p. 573-574.

It appears that most children with ADD also have some degree of academic difficulties. These difficulties could be the result of a wide array of factors, although it is suspected that ADD is a primary cause. It is thought that the ADD impairs cognitive processes necessary for academic success, and limits the ability of these children to function in the classroom.

Studies examining the academic achievement of ADD children indicate that they are more likely to receive lower grades in academic subjects, score lower on standard measures of reading and mathematics, and have failed a grade than non-ADD children.[52] Academic underachievement in terms of a significant discrepancy between predicted and actual achievement on standardized tests has been found to be higher for ADD children than non-ADD children.[53] The characteristics of ADD--inattention, impulsivity, and hyperactivity--are linked to academic problems.

In summary, scientific knowledge about ADD is still incomplete. More research is needed to resolve definitional, diagnostic, and clinical concerns about attention disorders.

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[52]Barkley, Russell A., et al. The Adolescent Outcome of Hyperactive Children Diagnosed By Research Criteria: I. An 8-Year Prospective Follow-Up Study. *Journal of the American Academy of Child and Adolescent Psychiatry*, v. 29, no. 4, July 1990. p. 555; and Wenar, Charles. *Developmental Psychopathology: From Infancy Through Adolescence*. New York, McGraw-Hill Publishing, 1990. p. 188.

[53]Frick, Paul J., et al. Academic Underachievement and the Disruptive Behavior Disorders. *Journal of Consulting and Clinical Psychology*, v. 59, no. 2, Apr. 1991. p. 291-292.